

99B.10 Electrical and mechanical amusement devices penalties.

1. It is lawful to own, possess, and offer for use by any person at any location an electrical or mechanical amusement device and the use of the electrical or mechanical amusement device shall not be deemed gambling, but only if all of the following are complied with:

- a.* A prize of merchandise exceeding five dollars in value shall not be awarded for use of the device. However, a mechanical or amusement device may be designed or adapted to award a prize or one or more free games or portions of games without payment of additional consideration by the participant.
- b.* A prize of cash shall not be awarded for use of the device.
- c.* An amusement device shall not be designed or adapted to cause or to enable a person to cause the release of free games or portions of games when designated as a potential award for use of the device, and shall not contain any meter or other measurement device for recording the number of free games or portions of games which are awarded.
- d.* An amusement device shall not be designed or adapted to enable a person using the device to increase the chances of winning free games or portions of games by paying more than is ordinarily required to play the game.
- e.* An amusement device required to be registered as provided in paragraph "*f*", shall not be placed into operation without first obtaining a new amusement device registration tag if electronic or mechanical components have been adapted, altered, or replaced and such adaptation, alteration, or replacement changes the operational characteristics of the amusement device including but not limited to the game being changed.
- f.* (1) Each electrical and mechanical amusement device in operation or distributed in this state that awards a prize, as provided in this section, where the outcome is not primarily determined by the skill or knowledge of the operator, is registered by the department as provided by this lettered paragraph and is only located on premises for which a class "A", class "B", class "C", special class "C", or class "D" liquor control license or class "B" or class "C" beer permit has been issued pursuant to chapter 123. For an organization that meets the requirements of section 99B.7, subsection 1, paragraph "*m*", no more than four, and for all other persons, no more than two electrical and mechanical amusement devices registered as provided by this lettered paragraph shall be permitted or offered for use in any single location or premises for which a class "A", class "B", class "C", or class "D" liquor control license or class "B" or class "C" beer permit has been issued pursuant to chapter 123.

(2) Each person owning an electrical and mechanical amusement device in this state shall obtain a registration tag for each electrical and mechanical amusement device owned that is required to be registered as provided in this lettered paragraph. Upon receipt and approval of an application and a fee of twenty-five dollars for each device required to be registered, the department shall issue an annual registration tag. A registration may be renewed annually upon submission of a registration application and payment of the annual registration fee and compliance with this chapter and the rules adopted pursuant to this chapter.

(3) The number of electrical and mechanical amusement devices registered by the department under this lettered paragraph shall not exceed the total number of devices registered by the department as of April 28, 2004. In addition, the department shall not initially register an electrical and mechanical amusement device that is required to be registered as provided in this lettered paragraph to an owner for a location for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 on or after April 28, 2004.

(4) A person owning or leasing an electrical and mechanical amusement device required to be registered under this lettered paragraph shall only own or lease an electrical and mechanical amusement device that is required to be registered that has been purchased from a manufacturer, manufacturer's representative, or

distributor registered with the department under section 99B.10A.

(5) An owner at a location for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 shall not relocate an amusement device registered as provided in this lettered paragraph to a location other than the location of the device on April 28, 2004, and shall not transfer, assign, sell, or lease an amusement device registered as provided in this lettered paragraph to another person for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 after April 28, 2004.

g. A person owning or leasing an electrical and mechanical amusement device required to be registered under paragraph "*f*", shall display the registration tag as required by rules adopted by the department.

h. A person owning or leasing an electrical and mechanical amusement device required to be registered under paragraph "*f*" shall not allow the electrical and mechanical amusement device to be operated or made available for operation with an expired registration.

i. A person owning or leasing an electrical and mechanical amusement device required to be registered under paragraph "*f*", or an employee of a person owning or leasing an electrical and mechanical amusement device required to be registered under paragraph "*f*", shall not advertise or promote the availability of the device to the public as anything other than an electrical and mechanical amusement device pursuant to rules adopted by the department.

j. A person owning or leasing an electrical and mechanical amusement device required to be registered under paragraph "*f*" shall not relocate and place into operation an amusement device in any location other than a location which has been issued an appropriate liquor control license in good standing and to which the device has been appropriately registered with the department.

k. Any awards given for use of an amusement device shall only be redeemed on the premises where the device is located and only for merchandise sold in the normal course of business for the premises.

l. Each electrical or mechanical amusement device required to be registered as provided by this section shall include on the device a counting mechanism which establishes the volume of business of the device. The department and the department of public safety shall have access to the information provided by the counting mechanism.

m. Each electrical or mechanical amusement device required to be registered as provided by this section at a location for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 shall include on the device a security mechanism which prevents the device from being operated by a person until action is taken by the owner or owner's designee to allow the person to operate the device.

n. An electrical or mechanical amusement device required to be registered as provided in this section shall not be a gambling device, as defined in section 725.9, or a device that plays poker, blackjack, or keno.

o. Any other requirements as determined by the department by rule. Rules adopted pursuant to this lettered paragraph shall be formulated in consultation with affected state agencies and industry and consumer groups.

2. A person who violates any provision of subsection 1, except as specified in subsection 3, commits a serious misdemeanor.

3. A person who violates any provision of subsection 1, paragraph "*a*", "*e*", "*g*", "*h*", "*i*", "*j*", "*k*", or "*m*", shall be subject to the following:

a. For a first offense under an applicable paragraph, the person commits a simple misdemeanor, punishable as a scheduled violation pursuant to section 805.8C, subsection 4, paragraph "*b*".

b. For a second or subsequent offense under the same applicable paragraph, the person commits a serious misdemeanor.

4. Notwithstanding any provision of this section to the contrary, it is lawful for an individual other than an owner or promoter of an amusement device to operate an amusement device, whether or not the amusement device is owned, possessed, or offered for use in compliance with this section.

[C75, 77, 79, 81, § 99B.10]

87 Acts, ch 234, § 425; 88 Acts, ch 1274, § 34; 89 Acts, ch 231, §24; 2003 Acts, ch 147, §1, 7; 2004 Acts, ch 1118, §2, 3, 11; 2004 Acts, ch 1175, §343; 2005 Acts, ch 106, §7; 2007 Acts, ch 173, §2